



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 20, 2023
MOAHR Docket No.: 23-006050
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 8, 2023. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearings Coordinator.

ISSUE

Did the Department properly determine Petitioner's State Emergency Relief (SER) non-heat electric eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner submitted an SER application requesting assistance with non-heat electric through DTE.
2. On August 14, 2023, the Department reviewed a DTE verification of Petitioner's bill showing that Petitioner owed a total of \$797.86 for all accounts and balances. The bill was broken down to show a total non-heat electric past due balance of \$133.17, current charges of \$91.03, and finally, electric late fees totaling over \$560.00.
3. On August 14, 2023, the Department issued a Notice of Case Action to Petitioner informing him that his application for assistance was approved in the amount of \$133.17 with no copay.

4. On September 21, 2023, Petitioner submitted a hearing request disputing the amount of the payment from the Department arguing that the remainder of his bill due was not attributable to late fees.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner disputes the amount of SER benefits paid by the Department and believes that he is entitled to a greater payment. Pursuant to policy, low-income household who meet all SER eligibility requirements may receive assistance with heat and electric costs. ERM 301 (April 2023), p. 1. Currently, households may receive multiple payments for non-heat electric up to the SER service cap per fiscal year until the one payment policy is reinstated. *Id.* SER assistance is available to resolve the emergency by restoring or continuing services for at least 30 calendar days. ERM 301, p. 4. Current bills that are not past due or subject to shut off cannot be included in the amount needed. *Id.* In addition, payments are not authorized for late payment charges when the energy provider is regulated by the Michigan Public Service Commission (MPSC). ERM 301, p. 6. However, per MPSC billing rules, a regulated utility shall not assess a late payment charge against a customer whose payment is being made by the Department. *Id.* The 2% late fee should not be charged to the customer but should instead be reduced to zero for any payments made by the Department through SER or Michigan Energy Assistance programs.

In reviewing the Department's decision, the Department properly afforded Petitioner a payment of \$133.17 based upon Petitioner's currently outstanding non-heat electric balance because this was the only portion of the bill which was past due and was not attributable to late fees. DTE is a MSPC regulated company. Therefore, late fees associated with this payment, or any other payment made by the Department to DTE should not have been assessed. Petitioner may need to contact DTE to have the fees removed as the Department is not responsible for and is not permitted to make payment on these fees.

Finally, at the hearing, Petitioner argued that the Department should make payments on his behalf which cover the late fees because he was originally told over a year ago by a Department worker, that his DTE bills would be paid in full. The person who informed Petitioner of this information either was misinformed of the Department's capabilities or

Petitioner misunderstood the statements of the Department worker. In either case, the Department is only permitted to make payments as outlined in this decision. Likewise, the undersigned is only authorized to require the Department to act in accordance with the policy as outlined here. Finally, even if Petitioner was entitled to additional payments because of something the Department did or did not do in October of 2022, policy provides that all hearing requests must be made within 90 days of the decision notice by the Department. ERM 404 (March 2013), p. 1; BAM 600 (March 2021), p. 6. Petitioner has had multiple SER decisions and SER non-heat electric payments since October 2022. Because Petitioner is disputing actions of the Department approximately one year prior to his hearing request and after having received multiple decisions from the Department, this portion of the request was not timely submitted and does not fall within the jurisdiction of MOAHR.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner's SER eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/mp


Amanda M. T. Marler
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

Interested Parties

MDHHS-Macomb-36-Hearings
E. Holzhausen
J. McLaughlin
MOAHR
BSC4

Via-First Class Mail :

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]